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HOUSE BILL 26-1305

BY REPRESENTATIVE(S) Lukens, Brown, Duran, Espenoza, Gonzalez R., Jackson, Lieder, Lindsay, Marshall, McCormick, Nguyen, Ricks, Rutinel, Smith, Stewart K., Stewart R., McCluskie, Boesenecker, English, Weinberg;
also SENATOR(S) Roberts, Amabile, Benavidez, Bridges, Catlin, Cutter, Daugherty, Exum, Gonzales J., Jodeh, Kipp, Kolker, Lindstedt, Liston, Marchman, Mullica, Pelton B., Snyder, Wallace, Weissman, Coleman.

CONCERNING ENHANCING ACCESS TO INPATIENT BEHAVIORAL HEALTH BY
ALIGNING STATE AND FEDERAL STATUTES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 25-1.5-103, **add** (1)(e) as follows:

25-1.5-103. Health facilities - powers and duties of department - rules - limitations on rules - definitions - repeal.

(1) The department has, in addition to all other powers and duties imposed upon it by law, the powers and duties provided in this section as follows:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(e) TO ESTABLISH AND ENFORCE STANDARDS FOR THE OPERATION AND MAINTENANCE OF REMOTE PSYCHIATRIC INPATIENT LOCATIONS OF GENERAL HOSPITALS, AS DEFINED IN SECTION 25-3-101 (2)(d).

SECTION 2. In Colorado Revised Statutes, 25-3-101, **add** (2)(c), (2)(d), (5), (6), (7), (8), and (9) as follows:

25-3-101. Hospitals - health facilities - licensed - definitions.

(2) As used in this section, unless the context otherwise requires:

(c) "MAIN HOSPITAL" MEANS A HEALTH-CARE FACILITY THAT IS LICENSED AS A GENERAL HOSPITAL AND OPERATES A REMOTE PSYCHIATRIC INPATIENT LOCATION UNDER A GENERAL HOSPITAL'S LICENSE.

(d) "REMOTE PSYCHIATRIC INPATIENT LOCATION OF A GENERAL HOSPITAL" OR "REMOTE PSYCHIATRIC INPATIENT LOCATION" MEANS A HEALTH-CARE FACILITY THAT IS FEDERALLY DETERMINED OR SEEKING FEDERAL DETERMINATION AS A REMOTE LOCATION OF A MAIN HOSPITAL WITH PROVIDER-BASED STATUS PURSUANT TO 42 CFR 413.65, DELIVERS HEALTH-CARE SERVICES UNDER THE NAME, OWNERSHIP, AND FINANCIAL AND ADMINISTRATIVE CONTROL OF A MAIN HOSPITAL, AND MEETS THE FOLLOWING CRITERIA:

(I) (A) WAS INITIALLY LICENSED BY THE DEPARTMENT AS A PSYCHIATRIC HOSPITAL; OR

(B) WOULD OTHERWISE BE SUBJECT TO LICENSING AS A PSYCHIATRIC HOSPITAL;

(II) MEETS ALL THE STATE BOARD OF HEALTH LICENSING RULES FOR A PSYCHIATRIC HOSPITAL, INCLUDING BUILDING STANDARDS ADOPTED PURSUANT TO SECTION 25-1-108 (1)(c)(II);

(III) IS A STANDALONE FACILITY NOT LOCATED ON ANY HOSPITAL CAMPUS;

(IV) IS LOCATED WITHIN THIRTY-FIVE MILES OF THE MAIN HOSPITAL IN A RURAL AREA AS DEFINED IN SECTION 25-1.5-103 (3)(b); AND

(V) OFFERS PRIMARILY INPATIENT PSYCHIATRIC SERVICES WITH SEVENTEEN OR MORE INPATIENT BEDS.

(5) A HEALTH-CARE FACILITY THAT IS A REMOTE PSYCHIATRIC INPATIENT LOCATION OF A GENERAL HOSPITAL IS NOT REQUIRED TO BE SEPARATELY LICENSED AS A PSYCHIATRIC HOSPITAL. THE DEPARTMENT SHALL RECOGNIZE THE HEALTH-CARE FACILITY AS LAWFULLY LICENSED UNDER THE MAIN HOSPITAL'S GENERAL LICENSE, UPON PROOF THAT THE REMOTE PSYCHIATRIC INPATIENT LOCATION SATISFIES THE CRITERIA IN SUBSECTION (2)(d) OF THIS SECTION.

(6) A REMOTE PSYCHIATRIC INPATIENT LOCATION OF A GENERAL HOSPITAL IS SUBJECT TO STATE BOARD OF HEALTH LICENSING RULES FOR PSYCHIATRIC HOSPITALS AND IS NOT SUBJECT TO STATE BOARD OF HEALTH LICENSING RULES FOR GENERAL HOSPITALS.

(7) ANY ENFORCEMENT ACTION BY THE DEPARTMENT MUST BE TAKEN AGAINST THE MAIN HOSPITAL'S GENERAL HOSPITAL LICENSE, REGARDLESS OF WHETHER THE ACTION ARISES FROM CONDUCT THAT OCCURS AT THE MAIN HOSPITAL LOCATION OR THE REMOTE PSYCHIATRIC INPATIENT LOCATION.

(8) IN THE EVENT THAT THE REMOTE PSYCHIATRIC INPATIENT LOCATION IS NO LONGER FEDERALLY DETERMINED AS A REMOTE LOCATION OF A GENERAL HOSPITAL WITH PROVIDER-BASED STATUS PURSUANT TO 42 CFR 413.65, THE REMOTE PSYCHIATRIC INPATIENT LOCATION MUST SEEK A PSYCHIATRIC HOSPITAL LICENSE IN ORDER TO CONTINUE OPERATING.

(9) (a) A HEALTH-CARE FACILITY THAT DELIVERS HEALTH-CARE SERVICES UNDER THE NAME, OWNERSHIP, AND FINANCIAL AND ADMINISTRATIVE CONTROL OF A MAIN HOSPITAL THAT DOES NOT MEET THE REQUIREMENTS OF SUBSECTION (2)(d)(IV) OF THIS SECTION MAY ELECT TO BECOME A REMOTE PSYCHIATRIC INPATIENT LOCATION OF A GENERAL HOSPITAL FOR PURPOSES OF THIS SECTION IF THE FACILITY:

(I) WAS LICENSED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AS A PSYCHIATRIC HOSPITAL PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION (9);

(II) WAS FEDERALLY DETERMINED AS A REMOTE LOCATION OF A

GENERAL HOSPITAL WITH PROVIDER BASED STATUS PURSUANT TO 42 CFR 413.65 PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION (9);

(III) MEETS THE CRITERIA DESCRIBED IN SUBSECTIONS (2)(d)(II) AND (2)(d)(V) OF THIS SECTION; AND

(IV) IS CERTIFIED TO ACCEPT MEDICAID AND SERVES MEDICAID MEMBERS.

(b) A HEALTH-CARE FACILITY THAT QUALIFIES AS A REMOTE PSYCHIATRIC INPATIENT LOCATION OF A GENERAL HOSPITAL PURSUANT TO THIS SUBSECTION (9) IS SUBJECT TO THE SAME REQUIREMENTS APPLIED TO A REMOTE PSYCHIATRIC INPATIENT LOCATION PURSUANT TO THIS SECTION.

SECTION 3. In Colorado Revised Statutes, 25-3-102, **add** (1)(d.5) and (4) as follows:

25-3-102. License - application - issuance - certificate of compliance required - rules.

(1) (d.5) THE MAIN HOSPITAL MUST DEMONSTRATE THAT IT MEETS THE FOLLOWING CONDITIONS IN ITS APPLICATION FOR RENEWAL OF A LICENSE DESCRIBED IN SECTION 25-3-101 IN ORDER FOR A REMOTE PSYCHIATRIC INPATIENT LOCATION TO CONTINUE TO OPERATE UNDER THE MAIN HOSPITAL'S GENERAL HOSPITAL LICENSE:

(I) THE REMOTE PSYCHIATRIC INPATIENT LOCATION IS DESIGNATED BY THE COMMISSIONER OF THE BEHAVIORAL HEALTH ADMINISTRATION TO PROVIDE SERVICES PURSUANT TO ARTICLE 65 OF TITLE 27;

(II) THE REMOTE PSYCHIATRIC INPATIENT LOCATION IS FEDERALLY DETERMINED AS A REMOTE LOCATION OF A GENERAL HOSPITAL WITH PROVIDER-BASED STATUS PURSUANT TO 42 CFR 413.65;

(III) THE REMOTE PSYCHIATRIC INPATIENT LOCATION MEETS ALL STATE BOARD OF HEALTH PSYCHIATRIC HOSPITAL RULES; AND

(IV) THE REMOTE PSYCHIATRIC INPATIENT LOCATION IS CERTIFIED TO ACCEPT MEDICAID AND SERVES MEDICAID MEMBERS.

(4) IF AT ANY TIME A REMOTE PSYCHIATRIC INPATIENT LOCATION OF A GENERAL HOSPITAL IS NO LONGER FEDERALLY DETERMINED TO HAVE PROVIDER-BASED STATUS PURSUANT TO 42 CFR 413.65, THE REMOTE PSYCHIATRIC INPATIENT LOCATION MUST SECURE A PSYCHIATRIC HOSPITAL LICENSE FROM THE DEPARTMENT TO CONTINUE OPERATIONS.

SECTION 4. In Colorado Revised Statutes, 25-3-102.1, **amend** (1)(b)(III); and **add** (1)(b)(IV) as follows:

25-3-102.1. Deemed status for certain facilities.

(1) (b) (III) If the department of ~~public health and environment~~ takes an enforcement activity, as defined in section 25-1.5-103 (2)(b.5), against a health facility to which it has granted deemed status pursuant to this ~~paragraph (b)~~ SUBSECTION (1)(b), the department may revoke the health facility's deemed status.

(IV) (A) A REMOTE PSYCHIATRIC INPATIENT LOCATION OF A GENERAL HOSPITAL MUST ONLY BE DEEMED BY THE DEPARTMENT TO MEET THE REQUIREMENTS FOR RENEWAL UNDER THE GENERAL HOSPITAL'S LICENSE IF A PSYCHIATRIC HOSPITAL ACCREDITING ORGANIZATION HAS DETERMINED THAT THE REMOTE PSYCHIATRIC INPATIENT LOCATION SATISFIES SPECIALIZED PSYCHIATRIC REQUIREMENTS TO BE ACCREDITED AS A PSYCHIATRIC HOSPITAL.

(B) NOTHING IN THIS SECTION PREVENTS THE DEPARTMENT FROM CONDUCTING AN INSPECTION OF THE REMOTE PSYCHIATRIC INPATIENT LOCATION FOR LICENSING OR OTHER REQUIREMENTS.

(C) NOTHING IN THIS SECTION PREVENTS THE DEPARTMENT FROM CONDUCTING AN INSPECTION OF A REMOTE PSYCHIATRIC INPATIENT LOCATION TO INVESTIGATE A COMPLAINT REGARDING A VIOLATION OF SECTION 27-65-106, 27-65-107, 27-65-108.5, 27-65-109, 27-65-110, OR 27-65-119 TO THE EXTENT THE COMPLAINT IS APPLICABLE TO A HEALTH-CARE FACILITY LICENSED BY THE DEPARTMENT.

SECTION 5. In Colorado Revised Statutes, 25-3-105, **add** (1)(a)(IV) as follows:

25-3-105. License - fee - rules - performance incentive system -

penalty.

(1) (a) (IV) A MAIN HOSPITAL WITH A REMOTE PSYCHIATRIC INPATIENT LOCATION IS SUBJECT TO A SEPARATE LICENSING FEE FOR EACH REMOTE PSYCHIATRIC INPATIENT LOCATION OPERATING UNDER A SINGLE GENERAL HOSPITAL LICENSE.

SECTION 6. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO